

REMARKS

The foregoing amendments and these remarks are in response to the Office Action dated September 28, 2007. This amendment is timely filed.

At the time of the Office Action, claims 1-11 were pending. In the Office Action, objections were raised to the drawings. Claims 6 and 8-11 were rejected under 35 U.S.C. §112, second paragraph. Claim 7 was rejected under 35 U.S.C. §102(b). Claims 1-6 and 8-11 were rejected under 35 U.S.C. §103(a). The objections and rejections are discussed in more detail below.

I. Objections to the Drawings

In the Office Action, the drawings were objected to because pad 4 as mentioned in the disclosure was not shown in the Figures. Applicant submits herewith new Figures 8-11 which shows pad 4. Accordingly, withdrawal of the objections to the drawings is thus respectfully requested.

II. Rejection under 35 U.S.C. §112, second paragraph

Claims 6 and 8-11 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are amended herein to specify that the method stages are repeated for different colors rather than for all the desired colors, which is now believed to be clear and to have antecedent basis, and withdrawal of the rejection is thus respectfully requested.

III. Rejections on Art

Claim 7 was rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,360,658 to Benson ("Benson"). Claims 1, 2, 4, 6, 8 and 10 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,199,559 to Nikolaus ("Nikolaus") in view of

Benson. Claims 3 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nikolaus in view of Benson and further in view of U.S. Patent No. 6,000,335 to Imamaki ("Imamaki"). Claims 5 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nikolaus in view of Benson and further in view of U.S. Patent No. 5,236,365 to Badami.

Claim 1 is amended herein to specify that the process is directed to decorating the surface of a cosmetic product **in powder form** by using a decorating product **in powder form** which is firstly inserted into a non-shaped cavity and then leveled at the top of the cavity.

The process of amended claim 1 is believed to be fully distinguished from Nikolaus, which is not directed to a process in which a shaped pad picks up a portion of a decorating product in powder form from a cavity and transfers it to the surface of a cosmetic product in powder form to be decorated. The receiving surface of Nikolaus is the skin of the user and not another cosmetic product in powder form.

The difference is not remedied by Benson, which refers to the transfer of ink, that is a liquid product, from ink impregnated segments to a surface to be inked. The ink segments 20-22 of Benson are not cavities filled with cosmetic products in powder form and no powder leveling step is provided. Moreover, the surface to be inked is the skin of the user and not another cosmetic product in powder form.

Furthermore, no additional relevant teaching is found in Imamaki.

For the foregoing reasons, claim 1 is believed to relate to patentable subject matter, and to be in condition for allowance. The dependent claims 2, 3, 6, 8 and 9 are also believed to be patentable, because of their dependence upon an allowable base claim, and because of the further features recited. Claims 4, 5, 7, 10 and 11 are cancelled herein without prejudice to applicant's right to reintroduce the subject matter thereof, either during prosecution of the present application or in one or more divisional or continuing applications.

IV. Conclusion

Applicant has made every effort to present claims which distinguish over the prior art, and it is thus believed that all claims are in condition for allowance. Nevertheless, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the

U.S. Patent Appln. No. 10/539,651
Amendment
Reply to Office Action dated September 28, 2007

Docket No. 1610-114

prosecution of the application to an allowance. In view of the foregoing remarks, Applicant respectfully requests reconsideration and prompt allowance of the pending claims.

Date: 12/28/07

Respectfully submitted,



J. Rodman Steele, Jr.
Registration No. 25,931
Sarah E. Smith
Registration No. 50,488
AKERMAN SENTERFITT
Post Office Box 3188
West Palm Beach, FL 33402-3188
Telephone: (561) 653-5000